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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/811,237 | 03/15/2001 | Karapet Ablabutyanyan | 23451-037 | 8258 |

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EXAMINER

KEENAN, JAMES W

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3652

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/811,237

Applicant(s)

ABLABUTYAN ET AL.

Examiner

James Keenan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-19 and 21-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-19 and 41-45 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-14, 21-40 and 46-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 5, 7-9, 21-24, 26, 46 and 49-51 rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al (US 5,641,262) in view of Corley, Jr. (US 3,700,123), both previously cited.

Dunlop shows a liftgate assembly comprising a unitary frame having opposing side plates 3A, 3B and extension plate 5 extending therebetween, hydraulically driven lift frame 81 pivotally attached to the side plates, and liftgate platform 87 rotatably attached to the lift frame, wherein the liftgate is secured to the vehicle body by brackets 7A, 7B in a fully assembled state, as shown in figure 6. Although not explicitly disclosed as an impact bumper, the side plate includes a structure surrounding control switch 51 (see figure 1) which is inherently considered to meet the broad claim limitation, inasmuch as it clearly would protect, at least to some extent, the switch from impacts. The provision of another bumper on the other side plate, if not inherent, would be an obvious duplication of parts.

Dunlop does not show the platform to be supported at one end only, chains 89 being used to support the outer portion thereof.

Corley shows a substantially similar liftgate assembly wherein platform 31 is pivotally supported at one end only to lift frame 30. Note also stop dogs 57.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Dunlop by supporting the liftgate platform at one end only by utilizing stop dogs instead of chains, as shown by Corley, as this would simply be an art recognized alternate equivalent means of limiting the downward swing of the platform.

Claims 4, 5, and 7-9 are treated in the manner set forth in prior Office action, paper #13.

Re claims 21-24, 26, 46 and 49-51, the modified apparatus of Dunlop could obviously be used to perform the method steps set forth.

3. Claims 2-3, 10-14, 25, 27-35, and 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al in view of Corley, Jr., as applied to claims 1, 4, 5, 7-9, 21-24, 26, 46 and 49-51 above, and further in view of Fretwell et al (US 5,556,250, previously cited).

The side plates of Dunlop are attached to the rear of the vehicle body, rather than the underside thereof. The side plates of Corley are attached to the rear of the vehicle body as well as underneath the vehicle, but the attachment underneath the vehicle is to the frame members thereof, not the body.

Fretwell, however, shows a lift platform mounted in a housing M beneath a vehicle body. The housing is bolted to the vehicle with brackets 144. Although the housing is not explicitly stated as being attached to the vehicle body, it appears to be so mounted, or at the very least clearly could be so mounted.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified the apparatus of Dunlop by attaching the side plates underneath the vehicle body rather than to the rear thereof, as suggested by Fretwell, so that most or all of the components would be stored in a safe, out of the way location.

4. Claims 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunlop et al in view of Fretwell et al.

This rejection utilizes the same obviousness rationale as set forth in the immediately preceding paragraph, except that the Corley reference is unnecessary since the claims do not require the liftgate platform to be supported at one end only.

Re claim 39, the chains of Dunlop are considered to be a "motion limiting stop".

5. Applicant's arguments filed 12/13/04 have been fully considered but they are not persuasive. Despite applicant's assertion otherwise, Dunlop is considered to show the side plate to include an impact bumper, as noted above.

6. Claims 15-19 and 41-45 are allowed.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within


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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 703-308-2559. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Keenan
Primary Examiner
Art Unit 3652

jwk
2/24/05